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VIA ECF

March 17, 2021

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10005

Re: *United States v. Omar Amanat*
Docket No. S8 15 Cr. 536 (PGG)

Dear Judge Gardephe:

This letter is to clarify and hopefully streamline the filings emanating from this office. The parenthetical numbers refer to the document number in the docket sheet for this case.

As the Court will recall, on December 28, 2020, counsel herein filed a timely Rule 33 Motion (No. 1113) and Memorandum of Law in support thereof. (No. 1114) Point Two of the Memorandum contained supplemental exhibits in support of the pending Rule 29 Motion (No. 735) which contended at Point II, that the Court erred in allowing Special Agent Joel DeCapua to testify as an expert (Point II (A) of the Rule 29 Motion), and that his false expert testimony required a new trial. (Point II (B) of the Rule 29 Motion). The Supplemental Exhibits contained evidence in No. 1114 supported the contention that SA DeCapua was categorically wrong about matters that he had testified were absolute proof of fabrication, decimating his claim of expertise, and that the false expert testimony caused severe prejudice and denied Mr. Amanat of a fair trial.

The Government requested a number of items of discovery related to the newly discovered Blackberry. Among those was an affidavit from Helena Amanat, Omar Amanat's ex-wife, who had discovered the Blackberries. Although counsel herein provided the Government with some information, counsel suffered a serious health emergency. The Government graciously agreed to give counsel time to recover before addressing this issue.

While we obtained the Cellebrite downloads and other items of attorney work-product, there was no way to know if we would be able to establish a chain of custody of the phones in the near future as Ms. Helena Amanat was outside of this country and hospitalized with serious medical issues. While she is no longer hospitalized, there is no way to know if or when Ms. Amanat will recover sufficiently to provide a sworn affidavit as to when, where and

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how she found the Blackberries, as well as to whom she gave them and when. Ms. Amanat is the genesis of the chain of custody. Without her, there is a gap that cannot be filled. If I cannot fill that gap, there is no reason to provide the rest of the work product requested by the Government.

Rather than delay Mr. Amanat's sentencing indefinitely, on March 12, 2021, we filed document no. 1124, moving to withdraw the Rule 33 motion and memorandum based on the newly discovered Blackberries. (No. 1113 & 1114)

Mr. Amanat did not, however, wish to withdraw the additional exhibits in Point II of No. 1114, which were put forth in support of Point II of the already pending Rule 29 Motion. Thus, also on March 12, 2021, counsel herein sent a letter to the Court, (No. 1125) submitting the exhibits and explaining their relationship to the Rule 29 Motion (No. 735).

To summarize, Mr. Amanat does not wish to delay the proceedings by waiting to be able to establish the chain of custody.

Thus, on March 12, 2021, by document no. 1123, Mr. Amanat has withdrawn documents 1113 and 1114, the Rule 33 Motion and Memorandum of Law.

By document no 1125, the letter to the Court of March 12, 2021, Mr. Amanat resubmits the additional exhibits for the Rule 29 Motion (No. 735), that were in Point II of the now withdrawn 1113 and 1114.

Please feel to contact me if you have any questions.

Thank you.

Very truly yours,

/s/ Ruth M. Liebesman

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all counsel via ECF